



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

JAMES BOYD MCKENITH,  
Plaintiff,

vs.

GEORGE HAGAN, JOHN PATE, LEVERN  
COHEN, MAJOR WALKER, CAPTAIN JOHN  
DOE, ROBERT E. WARD and JON OZMINT,  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 9:05-1578-HFF-GCK

---

---

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE  
MAGISTRATE JUDGE AND DISMISSING THIS ACTION

---

---

This was filed as a Section 1983 action. Plaintiff is proceeding *pro se*. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Court dismiss the Complaint in this case for lack of prosecution. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on May 9, 2006. Plaintiff failed to file any objections to the Report.<sup>1</sup> In the absence of such objections, the Court is not required to give any explanation for adopting the Recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the Complaint in this case be **DISMISSED** for lack of prosecution.

**IT IS SO ORDERED.**

Signed this 31st day of May, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
HENRY F. FLOYD  
UNITED STATES DISTRICT JUDGE

\*\*\*\*\*

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

---

<sup>1</sup>The Court notes that Plaintiff is likely unaware that the Report has been issued, and that his objections are past due, since it appears from the record that Plaintiff's copy of the Report was returned to the Clerk marked "RTS- STATE PRISON 3/10/06." In light of present posture of the case, however, the Court is left with no alternative but to adopt the Report and dismiss the action.